

REMARKS

This Amendment is in response to the Office Action mailed August 11, 2005.

Claims 1-6, 9-19, and 22-28 are pending and stand rejected.

Claims 1, 3, 14, 16 and 27 have been amended. Claims 2, 9-13, 15, 22-26, and 28 have been cancelled.

In view of the amendments and the arguments presented herein, Applicants respectfully request reconsideration, removal of all claim rejections for any pending claims, and allowance of those same pending claims.

Claims 1-6, 9-19, and 22-28 have been rejected under 102(e) as being anticipated by US Patent 6,697,823 to Otsuka et al. (Otsuka) in view of US Patent no. 5,778,395 to Whiting.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, in the interest of advancing the prosecution of this matter, independent claims 1, 14 and 27 have been amended to recite that the interface is created using data structures created by the execution of selected ones of a plurality of functions calls and that the function calls are part of the application program interface. No new matter has been added. Support for the amendment may be found in at least dependent claims 2, 15 and 28.

Although these claims have been rejected in view of the cited references, it will be shown that the independent claims, as amended, are not rendered obvious by the cited references.

Otsuka discloses a computer system having a backup function. Otsuka discloses using a public terminal connected to a public telephone management company through the telephone line and each user can use the public terminal by loading a disk owned by the user. Otsuka further

discloses, in Figs. 12A, 12B, 13, and 14A-14C, a user interface that enables the user to dial a telephone number (Fig. 12A), interface with the backup system (Fig. 14A) and to provide an indication of the level of backup (Fig. 14C). However, the interface of Otsuka is specific to the operation of the Otsuka device. See for example, col. 21, lines 40-45, which state, in part, "Fig. 12A shows an example in which, for the purpose of making the user recognize that the public terminal can be used as a public telephone, a push dial display is shown, and for the purpose of making the user recognize that the public terminal can be used as a computer terminal, a computer use select display is shown. And, col. 22, lines 38-42, which state "[a]n example of a backup level selecting screen in this case is shown in FIG. 14C. That is, the backup operation contents of the backup level LV1 to LV5 of FIG. 9 are displayed on the screen so that user can select one by a touch operation."

Hence, Otsuka teaches the use of a specific graphic user interface for providing a means to enter data into the telephone or computer system. However, Otsuka fails to teach or suggest that the interface is created using data structures created by the execution of selected ones of a plurality of function calls, as is recited in the claims. Otsuka is totally silent with regard to using data structures.

Whiting discloses a system for backing up files from disk volumes on multiple nodes of a computer network. As part of the backup process, duplicate files may be identified across nodes, so that only a single copy of the contents of the duplicate files is stored in the backup storage means. (See Abstract). During the backup process, Whiting discloses that "the backup software searches through a global directory database for a matching file. The global directory data base is created and maintained by the Agent process ... Each time the Agent migrates a backup set

from [one directory to a second directory], it searches for new and updated files in the backup set and adds them to the global directory database.” (see col. 8, lines 8-18). Hence, although Whiting discloses the concept of databases, these databases are associated with the storing of data and do not include function calls that are part of an application program interface, as is recited in the claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant’s disclosure. MPEP 2143, Rev. 2, May 2004 (cite omitted).

In this case, Otsuka teaches a specific interface to enable a user to use the device recited and provides no motivation to include an interface created using databases using function calls. Rather Otsuka provides for a fixed interface that enables a user to select whether a telephone or computer interface is desired and when a desired interface is selected an appropriate corresponding interface is provided. Whiting is silent with regard to creating the interface. In fact, while Whiting teaches database, which is referred to in the Office Action, these databases are associated with storing data and not created by function calls.

Hence, Otsuka provides no motivation to incorporate a database in the interface function and neither Otsuka nor Whiting, individually or in combination, teach or suggest all the elements recited in the claims.

Even if it could be said that there were some motivation found in Otsuka, which applicant believes does not exist, to include the teachings of Whiting, the combined device would not render obvious the subject matter recited in claim 1, for example, as the combined device would not include all the elements claimed. More specifically, the databases would not be created by function calls, as is recited in the claims.

For at least this reason, applicant submits that the reason for the rejection has been overcome and respectfully requests that the rejection be withdrawn.

With regard to the remaining independent claims, these claims recited subject matter similar to that recited in claim 1 and have been amended in a manner similar to that made to claim 1. Hence, for the amendments made to the independent claims and for the remarks made with regard to claim 1, which are repeated, as if in full, herein, in regard to the remaining independent claims, applicant submits that the reason for rejecting these claims has been overcome and respectfully requests that the rejection be withdrawn.

With regard to the remaining dependent claims, these claims depend from the independent claims, which have been shown not to be obvious in view of the cited references. According, the remaining dependent claims are believed not obvious by virtue of their dependency upon an allowable base claim.

In view of the foregoing, the applicant believes that the application is in condition for allowance and respectfully request favorable reconsideration and allowance of all the claims

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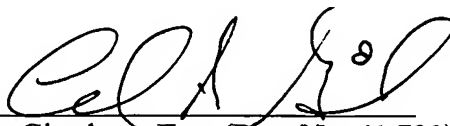
In the event the Examiner deems personal contact desirable in the disposition of this case,
the Examiner is invited to call the undersigned attorney.

Please charge all fees occasioned by this submission to Deposit Account No. **05-0889**.

Respectfully submitted,

Dated: _____

11/14/05



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